

1 Heedong Chae (SBN: 263237)

2 Email: hdchae@lucemlaw.com

3 Karen Kim (SBN 297857)

4 Email: kkim@lucemlaw.com

**LUCEM PC**

660 S. Figueroa St., Suite 1200

Los Angeles, CA 90017

Phone: 213-387-3630

Fax: 213-863-6332

8 Richard Kim (SBN: 272184)

Email: RichKimLaw@gmail.com

**LAW OFFICES OF RICHARD KIM**

6131 Orangethorpe Ave., Suite 370

Buena Park, CA 90620

Phone: 714-276-1122

Fax: 714-276-1120

*Attorneys for Plaintiff,*

***SPIGEN KOREA CO., LTD.***

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SPIGEN KOREA CO., LTD., a Republic  
of Korea corporation,

Plaintiff,

v.

ULTRAPROOF, INC., a California  
corporation; ULTRAPROOF, INC., a  
Nevada corporation; ENDLISS  
TECHNOLOGY, INC., a California  
corporation; DOES 1 through 10,  
inclusive,

Defendants.

Case No: 2:16-CV-09185-DOC-DFM;  
2:17-cv-01161-DOC-DFM  
(consolidated)

**THIRD AMENDED COMPLAINT  
FOR DESIGN PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

1  
2 Plaintiff SPIGEN KOREA CO., LTD. (hereinafter “SPIGEN” or “Plaintiff”),  
3 for its complaint for patent infringement against Defendants ULTRAPROOF, INC.,  
4 ULTRAPROOF, INC., and ENDLISS TECHNOLOGY, INC. (hereinafter,  
5 collectively, “Defendants”), alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This is an action for patent infringement arising under the patent laws of  
8 the United States, Title 35, United States Code.

9 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331  
10 and 1338(a).

11 3. This Court has personal jurisdiction over all the Defendants by virtue of  
12 their transacting, doing, and soliciting business in this District, and because a  
13 substantial part of the relevant events occurred in this District.

14 4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b),  
15 1391(c), 1391(d), and 1400(b).

16 **PARTIES**

17 5. Plaintiff, SPIGEN KOREA CO., LTD. (“SPIGEN” or “Plaintiff”), is a  
18 corporation organized and existing under the laws of Republic of Korea, with its  
19 principal place of business at 371-37 Kasandong, STX V-Tower #1709, Geumcheon-  
20 gu, Seoul, Republic Of Korea.

21 6. Plaintiff is informed and believes, and thereon alleges, that defendant  
22 ULTRAPROOF, INC. (“ULTRAPROOF CA”), is a corporation organized and  
23 existing under the laws of the State of California, with its principal place of business  
24 at 3395 S. Jones Boulevard, #324, Las Vegas, Nevada 89146 .

25 7. Plaintiff is informed and believes, and thereon alleges that defendant  
26 ULTRAPROOF, INC. (“ULTRAPROOF NV”), is a corporation organized and  
27 existing under the laws of the state of Nevada, with its principal place of business at  
28 3395 S. Jones Boulevard, #324, Las Vegas, Nevada 89146.

1           8.     Plaintiff is informed and believes, and thereon alleges, that defendant  
2 ENDLISS TECHNOLOGY, INC. ("ENDLISS"), is a corporation organized and  
3 existing under the laws of the state of California, with its principal place of business  
4 at 1867 Whipple Rd., Hayward, CA 94544.

5           9.     Upon information and belief, ULTRAPROOF CA and ULTRAPROOF  
6 NV are the actually the same entity. Jianshen Guo is the agent for service of process  
7 for ULTRAPROOF CA and the president, secretary, treasurer, and director of  
8 ULTRAPROOF NV.

9           10.    Upon information and belief, Jianshen Guo is the chief executive  
10 officer, secretary, and chief financial officer of ENDLISS.

11           11.    Upon information and belief, Defendants are working together to make,  
12 use, sell or offer to sell in the United States, or import into the United States,  
13 products that are covered by the claims of SPIGEN's design patents.

14           12.    Plaintiff is unaware of the true names and capacities, whether  
15 individual, corporate, or otherwise, of the Defendants named herein as Does 1  
16 through 10, inclusive, but is informed and believes, and thereon alleges, that each of  
17 the fictitiously named defendants engaged in, or is in some manner responsible for,  
18 the wrongful conduct alleged herein. Plaintiff therefore sues these defendants by  
19 such fictitious names and will amend this complaint to state their true names and  
20 capacities when such names have been discovered.

### 21                           **THE SPIGEN DESIGN PATENTS**

22           13.    Since 2004, SPIGEN has engaged in the development, manufacture, and  
23 sale of accessories for personal electronic devices, such as cell phones and smart  
24 phones.

25           14.    SPIGEN has taken extensive measures to protect its innovative designs.  
26 In particular, SPIGEN owns various United States design patents relating to its smart  
27 phone cover designs. Relevant to this dispute, SPIGEN is the owner of all right, title,  
28 and interest to each of the United States design patents identified below in Table 1

(the "Spigen Design Patents") since the date each patent duly and legally issued to SPIGEN. A copy of each Spigen Design Patent is attached to this Complaint.

//

//

//

//

**Table 1: Spigen Design Patents**

<b>U.S. Design Patent Number</b>	<b>Issue Date</b>	<b>Complaint Exhibit</b>
D771,607 ('607 Patent)	November 15, 2016	A
D753,099 ('099 Patent)	April 5, 2016	B
D775,620 ('620 Patent)	January 3, 2017	C
D776,648 ('648 Patent)	January 17, 2017	D

### **DEFENDANTS' INFRINGING ACTIVITIES**

15. Upon information and belief, Defendants have been and/or are directly infringing and/or are inducing infringement of Spigen Design Patents by, without SPIGEN'S permission, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products that are covered by the claims of Spigen Design Patents, including, by way of example and not limitation, the Trianium Protak Series for iPhone 6/6S, the Trianium Duranium Series for iPhone 6/6S and iPhone 7 Plus, and the Trianium Protanium Series for iPhone 6/6s, iPhone 7, and iPhone 7 Plus ("Accused Products"). *See* Exhibit E.

16. According to the Trianium website, Ultraproof is the only authorized seller, distributor, and marketer of Trianium products in the United States.

17. Upon information and belief, Defendants directly infringe the Spigen Design Patents by making, using, selling, offering to sell, and/or importing, by way of example and not limitation, the Accused Products.

18. Charts 1-4 below demonstrate, by way of example and not limitation, Defendants' infringement by comparing images of the Accused Products with figures from the Spigen Design Patents.

//

//

//

Chart 1: Images Depicting Infringement of Spigen Design Patent D771,607 by Defendants	
D771,607	Accused Product
<p>FIG. 2</p> 	
<p>FIG. 3</p> 	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Chart 2: Images Depicting Infringement of Spigen Design Patent D753,099 by Defendants	
D753,099	Accused Product
<p>FIG. 2</p>	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<p>FIG. 3</p> 	
<p>FIG. 4</p> 	
<p><b>Chart 3: Images Depicting Infringement of Spigen Design Patent D775,620 by Defendants</b></p>	
<p><b>D775,620</b></p>	<p><b>Accused Product</b></p>
<p>FIG. 3</p> 	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



//  
//  
//  
//  
//  
//  
//  
//  
//

Chart 4: Images Depicting Infringement of Spigen Design Patent D776,648 by Defendants	
D776,648	Accused Product
<p>FIG. 1</p> 	





19. Accordingly, the Accused Products infringe claims of the Spigen Design Patents.

### **COUNT 1: PATENT INFRINGEMENT**

20. SPIGEN re-alleges each and every allegation set forth in paragraphs 1 through 17 above, inclusive, and incorporates them by reference herein.

21. Defendants have made, used, sold, offered to sell, and/or imported into the United States, and are still making, using, selling or offering to sell, and/or importing into the United States, smart phone cases having designs that infringe the Spigen Design Patents without SPIGEN's permission.

22. Defendants have profited through infringement of the Spigen Design Patents. As a result of Defendants' unlawful infringement of the Spigen Design Patents, SPIGEN has suffered and will continue to suffer damages. SPIGEN is

1 entitled to recover from Defendants the damages suffered by SPIGEN as a result of  
2 Defendants' unlawful acts.

3 23. On information and belief, Defendants intend to continue their unlawful  
4 infringing activity, and SPIGEN continues to and will continue to suffer irreparable  
5 harm — for which there is no adequate remedy at law — from such unlawful  
6 infringing activity unless Defendants are enjoined by this Court.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, in consideration of the foregoing, SPIGEN prays for relief as  
9 follows:

10 1. For a judgment declaring that Defendants have infringed the Spigen  
11 Design Patents;

12 2. For a judgment awarding SPIGEN compensatory damages as a result of  
13 Defendants' infringement of the Spigen Design Patents, together with interest and  
14 costs, and in no event less than a reasonable royalty;

15 3. For a judgment declaring that this case is exceptional and awarding  
16 SPIGEN its expenses, costs, and attorney's fees in accordance with 35 U.S.C. §§ 284  
17 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

18 4. For a grant of a permanent injunction pursuant to 35 U.S.C. § 283,  
19 enjoining the Defendants from further acts of infringement; and

20 5. For such other and further relief as the Court deems just and proper.

21  
22 **JURY DEMAND**

23  
24 Plaintiff hereby demands a trial by jury on all issues so triable.  
25  
26  
27  
28

1 Dated: March 28, 2018

Respectfully submitted,

2 By: /s/ Heedong Chae

3 Heedong Chae

4 Karen Kim

5 LUCEM

6 Richard Kim

LAW OFFICES OF RICHARD KIM

7 Attorneys for Plaintiff,

8 KOREA SPIGEN CO., LTD.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28